ITEM No. 1008-D

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Calendar No. 1154

96TH CONGRESS, 2d Session | SENATE | REPORT No. 96-1022

PROVIDING FOR REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASES NUMBERED C-9496, C-9711, C-11600, C-11621, C-11622, C-11630, C-11631, C-11597, C-11599, C-13774, C-14197, C-17049, C-18262, C-26048, C-13532, C-11581, C-11585, C-11590, C-11591, and C-11595

NOVEMBER 19 (legislative day, JUNE 12), 1980.—Ordered to be printed

Mr. JACKSON, from the Committee on Energy and Natural Resources, submitted the following

COMPLETED ORIGINAL

REPORT

[To accompany H.R. 6258]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 6258), providing for reinstatement and validation of U.S. oil and gas leases numbered C-9496, C-9711, C-11600, C-11621, C-11622, C-11630, C-11631, C-11597, C-11599, C-13774, C-14197, C-17049, C-18262, C-26048, C-13532, C-11581, C-11585, C-11590, C-11591, and C-11595; having considered the same, reports favorably thereon without amendment and recommends that the act do pass.

PURPOSE

The purpose of H.R. 6258 is to provide for the reinstatement and validation of 20 specified oil and gas leases.

BACKGROUND AND NEED

The 20 leases listed in the bill were originally held by the Fuel Resources Development Co. (Fuelco), which is a subsidiary of the Public Service Co. of Colorado. Section 31 of the Mineral Leasing Act of 1920 provides that leases shall automatically terminate by operation of law if rental payments are not paid on or before the due date. Provision is made for reinstatement of any lease so terminated if, among other things, the Secretary is satisfied that the failure to make timely payment was either justifiable or was not due to a lack of reasonable diligence on the part of the lessee.

Fuelco's rental payment was postmarked November 7, 1978 (the payment was due on November 1, 197[illegible]). On November 13, 1978, the Bu-

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reau of Land Management sent notice of the lease terminations and Fuelco thereafter petitioned for reinstatement of the leases. On December 22, 1978, the Bureau of Land Management's Colorado State office issued a decision denying reinstatement, because the lessee had failed to demonstrate that the failure to make timely payment of the rentals due was either justifiable or not due to a lack of reasonable diligence. The Interior Department's Board of Land Appeals affirmed that decision on September 11, 1979, except for lease C–11590 which was remanded for a determination as to whether it was included within a designated unit which contained a producing well on or prior to the rental due date (if so, the rental would not have been due). On December 4, 1979, Fuelco filed suit seeking judicial reinstatement, however it subsequently requested a stay of proceedings pending possible congressional action.

The problem involves the fact that Fuelco is unable to explain the delay involved. The rental check was issued by the lessee on October 17, 1978, but the postmark on the envelope was dated November 7, 1978. Other checks issued by Fuelco dated October 17, 1978, with numbers prior and subsequent to the other BLM check were transmitted, received, and negotiated by the payees prior to November 1, 1978.

LEGISLATIVE HISTORY

H.R. 6258 was introduced on January 22, 1980. A companion bill, S. 3133 was introduced on September 22, 1980, by Senator Armstrong.

The Committee on Interior and Insular Affairs of the House of Representatives (Subcommittee on Mines and Mining) held a hearing on H.R. 6258 on June 26, 1980, and favorably reported the bill on July 2, 1980. It passed the House of Representatives on September 4, 1980. No hearing on either H.R. 6258 or S. 3133 was held by the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources. On November 19, 1980, H.R. 6258 was considered by the Committee on Energy and Natural Resources and ordered reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in an open business session on November 19, 1980, by unanimous vote of a quorum present, recommended that the Senate pass H.R. 6258 without amendment.

COST AND BUDGETARY CONSIDERATION

Enactment of H.R. 6258, in the opinion of the Committee on Energy and Natural Resources, would have no Federal budget impact nor require significant Federal expenditures.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 6258.

The bill is not a regulatory measure in the sense of imposing Government standards or significant economic responsibilities on private

individuals or business. No personal information will be collected in administering the program. Therefore, it would not impact on personal privacy. Little, if any, additional paperwork would result from the enactment of H.R. 6258.

EXECUTIVE COMMUNICATIONS

By letter dated June 25, 1980, the Department of the Interior commented on H.R. 6258. The letter in its entirety follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 25, 1980.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 6258, a bill providing for reinstatment and validation of U.S. oil and gas leases numbered C-9496, C-9711, C-11600, C-11621, C-11622, C-11630, C-11631, C-11597, C-11599, C-13774, C-14197, C-17049, C-18262, C-26048, C-13532, C-11581, C-11585, C-11590, C-11591, and C-11595.

H.R. 6258 would require that 20 specified oil and gas leases be held not to have terminated by operation of law or otherwise on November 1, 1978. The leases would be deemed to be in full force and effect, would be extended by the shorter of two methods of computation, and would continue in effect so long thereafter as oil or gas is produced in paying quantities. The Secretary would be required to give notice to the lessees within 30 days of enactment of this bill, and the lessees would be required to make payment of rents due within 30 days of receipt of that notice.

We oppose enactment of H.R. 6258. The facts do not reveal any special circumstances which warrant waiver of the requirements of the Mineral Leasing Act of 1920 through such special legislative relief.

Section 31 of the Mineral Leasing Act of 1920 (30 U.S.C. 188) provides that "upon failure of a lessee to pay rental on or before the anniversary date of the lease, for any lease on which there is no well capable of producing oil or gas in paying quantities, the lease shall automatically terminate by operation of law * * *". It further provides that the Secretary may reinstate any lease so terminated only if, among other things, it is shown, to the satisfiaction of the Secretary, that the failure to make timely payment was either justifiable or was not due to a lack of reasonable diligence on the part of the lessee.

On November 1, 1978, the leases which are the subject of H.R. 6258 were terminated by operation of section 31 of the Mineral Leasing Act of 1920 because the lessee, the Fuel Resources Development Co. (Fuelco), failed to make timely payment of the rental for the leases. (Fuelco's lease rental payment was mailed November 7, 1978.) On November 13, 1978, the Bureau of Land Management (BLM) sent notice of the lease terminations. Fuelco then petitioned for reinstatement of the leases.

In a decision dated December 22, 1978, Fuelco's petition for reinstatement was denied by BLM's Colorado State office because the lessee had not made the requisite showing that the failure to make the pay-

ment for the leases was either justifiable or was not due to a lack of reasonable diligence on their part. The denial was appealed to the Interior Board of Land Appeals (IBLA). On September 11, 1979, the IBLA affirmed the decision for all but two leases. Action on those two leases was remanded to the Colorado State office for further consideration. One of those leases C–13533 has been reinstated because of an apparent double payment the previous year, so that lease has not been included in H.R. 6258. The other lease C–11529 was remanded for a determination as to whether it was included within a designated unit which contained a well capable of production on or prior to the rental due date. If it was included, then the rental would not have been due and the lease will be reinstated. That lease, however, is included in H.R. 6258.

On December 4, 1979, Fuelco filed suit in the U.S. District Court for Colorado seeking judicial reinstatement of the terminated leases or an order directing administrative reinstatement. Fuelco subsequently requested and the court granted, a stay of the proceedings pending possible action by Congress this session.

Fuelco's petition for reinstatement of the leases covered by H.R. 6258 has received a complete review within this Department, yet Fuelco has never given an actual explanation for the lateness of its payment for the leases. Thus, because the payment was late, without explanation, both the termination of the leases and the denial of reinstatement of the leases were statutorily required.

We find no justification for special relief in this case. To grant Fuelco the relief of H.R. 6258, while denying that same relief to others with similar problems, would provide Fuelco with an unfair advantage. Thousands of oil and gas leases have been terminated for nonpayment of rental under section 31 of the Mineral Leasing Act of 1920. If the relief of H.R. 6258 were granted, it would be unwarranted, and would impact upon all past decisions concerning such terminations. If the Congress feels there is need to relax the requirements of this law, we believe that any such changes should be made generally applicable to all, and not just applicable to one lessee.

Finally, while the caption of the bill provides for "reinstatement" of the lessees, the bill itself specifically states that the leases "shall not be held to have terminated by operation of law or otherwise on November 1, 1978, but shall be deemed to be in full force and effect * * *", and then refers to the date of reinstatement as the date to be used for computing extensions. Also, the proviso only requires notice of the rental payment due, not reinstatement. Thus, there are several inconsistencies in the drafting of this bill.

For all of these reasons, we oppose enactment of H.R. 6258.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

DANIEL BEARD, *Assistant Secretary.*

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the committee notes that no changes in existing law are made by the act, H.R. 6258, as reported.

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